

EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE

**EXECUTIVE ORDER NO. 2004-09**  
**CONTINUATION OF A STATE HOUSING TAX CREDIT AGENCY**  
**REPLACING EXECUTIVE ORDER NO. 98-12**

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*WHEREAS, the United States Congress has enacted and amended the Internal Revenue Code of 1986 (the "Code"); and*

*WHEREAS, Section 42 of the Code authorizes a Low-Income Housing Credit; and*

*WHEREAS, Section 42(h) of the Code stipulates that the Housing Credit is subject to certain restrictions regarding the aggregate credit allowable with respect to projects located in a state; and*

*WHEREAS, the Idaho Housing and Finance Association was created by the adoption of Title 67, Chapter 62 of the Idaho Code to increase the supply of housing for persons and families of low income and to encourage cooperation and coordination among private enterprise and state and local government to sponsor, build and rehabilitate residential housing for such persons and families; and*

*WHEREAS, in order to establish and continue an equitable process for the allocation of the allowable Low-Income Housing Credit for the State of Idaho, it is necessary and desirable to issue this Executive Order to provide authorization required under Section 42(h) for a State Housing Credit agency as defined in the Code;*

*NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the power vested in me do hereby order as follows:*

Section 1: *As used in the Executive Order:*

- (a) *"Annual Report" means the report required from any agency which allocates any housing credit amount to any building for any calendar year, as specified in Section 42(l)(3) of the Code.*
- (b) *"Code" means the Internal Revenue Code of 1986, as amended, and any related regulations.*
- (c) *"Executive Director" means the Executive Director of the Idaho Housing and Finance Association or such other official or officials of the Idaho Housing and Finance Association as the Executive Director shall designate to carry out the duties set forth in this Executive Order.*
- (d) *"Housing Credit Ceiling" means the dollar amount of State Housing Credit Ceiling applicable to any state for any calendar year in an amount based upon the applicable per capita limit and the State's population as determined in accordance with Section 42(h)(3) of the Code.*
- (e) *"Idaho Housing and Finance Association" or "Association" means the Idaho Housing and Finance Association, an independent public body, corporate and*

*politic, created by the Idaho Legislature under the provisions of Chapter 62, Title 67 of the Idaho Code, as amended.*

- (f) *"Low-Income Housing Credit" means the federal tax credit authorized under Section 42 of the Code.*
- (g) *"Qualified Low-Income Housing Project" means any project for residential rental property which meets the requirements of Section 42(g) of the Code; in general Section 42(g) of the Code pertains to the requirement that 20 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income, or that 40 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.*
- (h) *"State" means the State of Idaho.*
- (i) *"State Housing Credit Agency" means the agency authorized to carry out the provisions of Section 42(h), Section 42(l) and Section 42(m) of the Code and in particular the Idaho Housing and Finance Association.*
- (j) *"Year" means the period January 1 through December 31, inclusive, for each calendar year beginning prior to or after January 1, 2004.*

Section 2. *The Code has created a Low-Income Housing Credit which can be granted by a State Housing Credit Agency for a Qualified Low-Income Housing Project.*

*The Code has further created a Housing Credit Ceiling which the state may use in any year to assist Qualified Low-Income Housing Projects during the allocation term.*

Section 3. *The state has delegated certain responsibilities and granted certain powers to the Idaho Housing and Finance Association in order that the supply of housing for persons and families of low income be increased and that coordination and cooperation among private enterprise, state and local government be encouraged to sponsor, build and rehabilitate residential housing for such persons and families.*

Section 4. *The state requires the development of a Qualified Allocation Plan described in Section 7(a) below for the allocation of the Low-Income Housing Credit in order to ensure fair and equal opportunity by interested parties in gaining an allocation of the Housing Credit Ceiling.*

Section 5. *The state requires the implementation of said Qualified Allocation Plan in order to ensure the proper use of such credits for Qualified Low-Income Housing Projects.*

Section 6. *An Annual Report shall be submitted to the Secretary of the Treasury and to the Governor of the State of Idaho with respect to the use of the Low-Income Housing Credit for any year.*

Section 7. *In consideration of the requirements of the state, the Governor appoints the Idaho Housing and Finance Association to act as the State Housing Credit Agency for the state in the distribution of the Housing Credit Ceiling for any year.*

*The Idaho Housing and Finance Association is required to:*

- (a) *Establish a Qualified Allocation Plan as defined and provided for in Section 42(m) of the Code for the fair distribution of the Housing Credit Ceiling for the state;*

- (b) *Distribute the Housing Credit Ceiling for Qualified Low-Income Housing Projects in the manner required under Section 42 of the Code.*
- (c) *Submit an Annual Report to the Secretary of the Treasury and the Governor of the State of Idaho (at such time and in such manner as the Secretary shall prescribe) specifying:*
  - (1) *the amount of housing credit allocated to each building for such year,*
  - (2) *sufficient information to identify each such building and the taxpayer with respect thereto, and*
  - (3) *such other information as the Code, the Secretary, the Governor or the Legislature of the State of Idaho may require.*

Section 8. *The state pledges and agrees with the owners of any Qualified Low-Income Housing Project for which an allocation of the Housing Credit Ceiling has been granted under this Executive Order that the state will not retroactively alter the allocation of the Housing Credit Ceiling to such project except as may be required under the terms of the Code.*

Section 9. *No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt, or liability of the state.*

Section 10. *The purpose of this Executive Order is to maximize the opportunity for developing low-income housing units through the use of the Low-Income Housing Credit by providing a responsible State Housing Credit Agency within the meaning and requirements of Section 42 of the Code.*

Section 11. *This Executive Order shall be effective immediately continue the designation of the Idaho Housing and Finance Association as the State Housing Tax Credit Agency since January 1, 1998 and shall be applied to all allocations made after January 1, 1998, with respect to any Qualified Low-Income Housing Project. This Executive Order shall continue in effect until such time as it may be repealed or superseded by operation of the state or federal law.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capital, the 30th day of November, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred twenty-ninth, and of the Statehood of Idaho the one hundred fifteenth.*

A handwritten signature in black ink, reading "Dirk Kempthorne", written over a horizontal line.

DIRK KEMPTHORNE  
GOVERNOR

A handwritten signature in black ink, reading "Ben Yursa", written over a horizontal line.

BEN YURSA  
SECRETARY OF STATE